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8 UNITED STATES
9 ENVIRONMENTAL PROTECTION AGENCY
10 REGION 9

11 In The Matter Of:)

12 GOLD CREEK CORPORATION, ELY REFINING)
13 INC., EGAN MILLING COMPANY, INC.,)
14 SILVER INTERNATIONAL INC., IBEX)
15 MINING CORPORATION, EINER C. ERICKSON,)
16 WILLIAM M. FRANZ, FREDRICK E. FRANZ,)
17 AND ROBERT M. LARSON,)

ORDER

18 Respondents.)

85-05

19 PROCEEDING UNDER SECTION 106(a))
20 OF THE COMPREHENSIVE ENVIRONMENTAL)
21 RESPONSE, COMPENSATION AND LIABILITY)
22 ACT OF 1980 (42 USC 9606(a)))

23 The following Order is issued on this date pursuant to
24 Section 106(a) of the Comprehensive Environmental Response,
25 Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. 9606(a),
26 by authority delegated to the undersigned by the Administrator
27 of the United States Environmental Protection Agency ("EPA").
28 The Order is being issued to: Gold Creek Corporation, a Nevada
Corporation; Ely Refining Inc., a Nevada Corporation; Egan
Milling Company, Inc., a Nevada Corporation; Silver International
Inc., a Nevada Corporation; Ibex Mining Corporation, a Nevada

1 Corporation; Einer C. Erickson, a principal of the aforemen-
2 tioned corporations; William M. Franz; Fredrick E. Franz; and
3 Robert M. Larson ("Respondents"). Notice of the issuance of
4 this Order has heretofore been given to the State of Nevada.

5 The Director, Toxics and Waste Management Division, EPA
6 Region 9 has determined that there may be an imminent or
7 substantial endangerment to the public health or welfare or to
8 the environment because of an actual or threatened release of
9 hazardous substances from a facility operated by Respondents.

10 This Order directs you to undertake action to protect the
11 public and the environment from this endangerment.

12 FINDINGS AND CONCLUSIONS

13 1. Respondents, Gold Creek Corporation, Ely Refinery Inc.,
14 Egan Milling Company, Inc., Silver International Inc., Ibex
15 Mining Corporation and Einer C. Erickson ("Respondent operators"),
16 operated a gold milling facility known as the Lacawana Mill
17 located on Bothwick Road approximately one mile north of the
18 town of Ely, Nevada. The Lacawana Mill has not been in operation
19 since 1982.

20 2. The Lacawana Mill is located on a 40 acre parcel owned
21 by the City of Ely, which was leased to William M. Franz for a
22 number of years. William M. Franz apparently sublet a portion
23 of this land to the Respondent operators. The City of Ely
24 terminated its lease with William M. Franz in 1982.

25 3. Respondent operators constructed the Lacawana Mill on
26 the sublet property. The Lacawana Mill is a facility as defined
27 in §101(9) of CERCLA.

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1 4. Respondents, William M. Franz, Fredrick E. Franz, and
2 Robert M. Larson ("Respondent owners"), purchased the Lacawana
3 Mill building and equipment at a Sheriff's sale in May, 1985.

4 5. In 1983, the State of Nevada, Department of Environ-
5 mental Protection ("DEP"), inspected the Lacawana Mill and
6 discovered approximately 50 barrels of various chemicals and
7 15 bags of asbestos. DEP determined that the Lacawana Mill was
8 no longer in operation and that the drums and asbestos material
9 had been abandoned by the Respondents.

10 6. On August 20, 1985, EPA Region 9 inspected the Lacawana
11 Mill after being notified by the State of Nevada that the site
12 presented a hazard to local residents. Of particular concern
13 was the location of residences within three-quarters of a mile
14 of the mill and the lack of a fence to prevent unauthorized
15 access. In addition to the drums and bags of asbestos, the site
16 contains an open structure and several pieces of milling and
17 ore processing equipment, which could be an attractive nuisance
18 to local children.

19 7. EPA inspectors field tested samples from 16 drums and
20 from an open bag labeled asbestos. The tested drums were found
21 to contain various chemicals, including sodium sulfide, hydro-
22 chloric acid, nitric acid, and sodium hydroxide. Field testing
23 also indicated the presence of asbestos fibers.

24 8. The site also contains six drums marked "cyanide" and
25 several transformers and a drum marked "transformer oil". The
26 transformers and transformer oil drum were not field tested;
27 however, they could contain polychlorinated biphenyls

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1 (PCB), a hazardous substance. Field tests of the cyanide drums
2 did not indicate the presence of cyanide compounds; however,
3 field testing may not detect calcium cyanide which could be
4 present.

5 9. Sodium sulfide, hydrochloric acid, nitric acid, sodium
6 hydroxide and asbestos are hazardous substances as defined by
7 §101(14) of CERCLA and are subject to the terms and provisions
8 of that Act. These materials are also hazardous wastes as
9 defined by §1004(5) of the Resource Conservation and Recovery
10 Act, 42 U.S.C. 6903(5), and must be labeled, packaged, stored,
11 disposed of, and otherwise handled in accordance with the
12 regulations promulgated pursuant to that Act.

13 10. Of the 16 drums sampled, the contents of all but one
14 were properly identified. Based on the labels observed on the
15 remaining drums, EPA has determined that these drums probably
16 also contain hazardous substances. Although most of the drums
17 appeared to be in good condition, the drums could be opened
18 and spilled by unsuspecting children or vandals. Several of
19 the bags of asbestos were ripped open allowing asbestos fibers
20 to be released directly to the environment. Passersby could
21 easily walk through loose asbestos on the site.

22 ENDANGERMENT

23 11. Population at Risk: Individuals, particularly
24 children attracted to the abandoned mill, who walk on the site
25 may have direct contact with asbestos fibers and/or drummed
26 chemicals which may be opened and spilled.

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1 12. Exposure Risk: The immediate risk of harm is from
2 inhalation of asbestos fibers and direct dermal contact with
3 liquid and solid hazardous substances. There is also the
4 risk of inhalation or ingestion by children of any of these
5 substances. Sodium sulfide is unstable and can explode on
6 rapid heating or percussion.

7 13. Substances of Concern:

8 a. Asbestos is a known human carcinogen. Exposure to
9 asbestos fibers, which occurs via inhalation or ingestion,
10 can cause asbestosis and cancer. Excessive cancer risks have
11 been demonstrated at all fiber concentrations studied to date.
12 There is no known "safe" level of asbestos exposure.

13 b. Sodium sulfide is unstable and can explode on rapid
14 heating or percussion. It reacts violently when exposed to
15 water.

16 c. Hydrochloric acid is a strong corrosive which can burn
17 the skin, eyes and mucous membranes upon direct dermal contact.
18 It is also moderately irritating to the respiratory tract when
19 inhaled. Hydrochloric acid reacts violently with sodium hydroxide
20 (which is also present at the site) and produces toxic and
21 corrosive fumes when exposed to water.

22 d. Nitric acid is a corrosive material which can burn
23 the skin, eyes, and respiratory tract upon direct contact or
24 inhalation of vapors. It can cause acute pulmonary edema or
25 chronic pulmonary diseases from inhalation. Nitric acid reacts
26 violently with a variety of chemicals, including sodium hydroxide.
27 When heated or reacted with water it produces toxic and corrosive
28 fumes.

1 e. Sodium hydroxide has a markedly corrosive action upon
2 all body tissue. Its corrosive action on tissue causes burns
3 and frequently deep ulceration. Depending upon the severity of
4 exposure, the effects of inhalation can vary from mild irritation
5 of the mucous membranes to severe pneumonitis. Under certain
6 conditions, it can react violently with water, nitric acid and
7 hydrochloric acid (which have been found on-site).

8 14. The release of asbestos fibers and the potential
9 release of sodium sulfide, hydrochloric acid, nitric acid and
10 sodium hydroxide presents an imminent or substantial endanger-
11 ment to public health and welfare and the environment. In
12 order to prevent or mitigate immediate and significant risk of
13 harm to human life, health or to the environment, it is necessary
14 that immediate removal action be taken to contain and terminate
15 the release and potential release of hazardous substances from
16 the Lacawana Mill.

17 ORDER

18 Based upon the foregoing Findings and Conclusions,
19 Respondents are hereby ordered and directed to implement the
20 following site mitigation measures:

21 1. Within two days of the date of this Order, Respondents
22 shall provide 24-hour site security to prevent public access
23 and/or contact with the site. Site security may include either
24 fencing and posting of warning signs or provision of a security
25 guard. Site security shall continue until EPA determines that
26 the endangerment to public health and the environment no longer
27 exists.

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2. Within seven days of the date of this Order, Respondents shall submit to EPA a written confirmation of their intention to remove the hazardous substances from the site and mitigate any associated risk of harm. The written confirmation shall include a draft plan for implementing site mitigation to be conducted in accordance with state and federal law. At a minimum, the plan shall include: (1) site safety measures to protect on-site personnel and limit site access to qualified workers; (2) provisions for identifying, packaging, labeling, handling, disposing or recycling of all hazardous substances found at the site in accordance with the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq., and applicable state and local laws; and (3) a schedule for implementing site cleanup. The site cleanup schedule shall provide for the complete removal of all hazardous substances within thirty days of the date of this Order.

3. Within two days of EPA approval of a site mitigation plan, Respondents shall begin implementation of the plan. Implementation of the plan must be completed to the satisfaction of EPA within thirty days of the date of this Order.

4. Within twenty days of completion of site cleanup, Respondents shall submit to EPA a report describing the cleanup project and documenting complete removal of all hazardous substances from the site.

In carrying out the terms of this Order, Respondents shall comply with all federal, state and local laws and regulations. Respondents shall also obtain all required state and local permits.

1 Employees and authorized representatives of EPA and the
2 State of Nevada shall be granted access to the site for the
3 purpose of verifying compliance with the terms of this Order.

4 EPA may take over the removal action at any time if EPA
5 determines that Respondents are not taking appropriate action
6 to mitigate the site hazard. In the event EPA assumes responsi-
7 bility for the removal action, Respondents shall be liable for
8 all costs incurred by EPA to mitigate the site hazard. EPA
9 may order additional removal actions deemed necessary by EPA
10 to protect the public health and welfare or the environment.

11 EFFECTIVE DATE - OPPORTUNITY TO CONFER

12 This Order is effective within seven days of the date of
13 signature, and all times for performance shall be calculated
14 from that date. You may request a conference with the Director,
15 Toxics and Waste Management Division, EPA, Region 9 to discuss
16 the provisions of this Order within two days of receipt of this
17 Order. At any conference held pursuant to your request, you
18 may appear in person or by counsel or other representatives for
19 the purpose of presenting any objections, defenses or contentions
20 which you may have regarding this Order. If you desire such a
21 conference, please contact one of the persons named below within
22 the time set forth above for requesting a conference.

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PENALTIES FOR VIOLATION

Your willful violation or failure or refusal to comply with this Order, or any portion thereof, may subject you to a civil penalty of up to \$5000 per day pursuant to 42 U.S.C. §9606(b) and punitive damages equal to three times the amount of all costs incurred by the Government, pursuant to 42 U.S.C. §9607(c)(3).

It is so ordered on this 6 day of September, 1985.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By:


HARRY SBRAYDARIAN
DIRECTOR, TOXICS & WASTE MANAGEMENT DIVISION
EPA, REGION 9

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